IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3925 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

1 to 5 No

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K.GOPINATHAN DAMAYANTI RETIRED STENOGRAPHER-II - Petitioner(s)

Versus

DEAN GOVT. DENTAL COLLEGE AND HOSPITAL & 3 - Respondent(s)

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Appearance :

MS LUCINTA S RAJ for Petitioner No(s).: 1.

NOTICE SERVED for Respondent No(s).: 1, 2,3.

MS REETA CHANDARANA AGP for Respondent No(s).: 2.

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CORAM :HON'BLE MR.JUSTICE D.H.WAGHELA

Date : 05/07/2005

ORAL JUDGMENT

1. This petition under Article 226 of the Constitution is pressed for the limited purpose of claiming interest on delayed payment of retiral benefits by the respondents. It is the case of the petitioner that, after retirement of the petitioner

on 30.6.2003 upon reaching the age of superannuation and after more than 33 years of service, when it came to payment of pension, gratuity and commuted value of pension, the respondents took their own time in making the payments despite several circulars of the Government advising officers concerned to release retiral benefits as early as possible and, in any case, not later than three months.

2. The argument in defence based upon the affidavit of the Administrative Officer of Government Dental College and Hospital is that the petitioner was initially appointed as clerk since 20.10.1967 and her appointment was regularised with effect from 18.1.1968. She was thereafter appointed as stenographer grade II with effect from 10.9.1971 and that appointment was also irregular which had to be regularised after bulky inter-department correspondence. Thus, in short, the fact is that payment of the retiral benefits was admittedly delayed for no fault on the part of the petitioner and an amount to the tune of Rs.5,78,404/- was admittedly paid after 16 months of the date of retirement. Even assuming that the department was justified in consuming some time in finalising the retiral benefits to the petitioner, the delay beyond four months could not be justified on any reasonable ground. It is axiomatic that the petitioner would lose interest on the retiral benefits and she must be compensated for the same.

3. The learned counsel for the petitioner has pressed for interest at the rate of 12%, whereas the learned A.G.P. submitted that due to falling rates of bank interest, award of interest at the rate above 6% would not be justified. In the facts and circumstances, the amount of retiral benefits having been admittedly

withheld for an unjustifiably long period, respondent No.2, who is stated to be concerned with payments, is directed to pay to the petitioner interest at the rate of 9% on the total amount of dues of Rs.5,78,404/- for the period from 29.10.2003 to 29.10.2004 in view of the prevailing rate of interest on fixed deposits as also the rate of inflation. Rule is made absolute accordingly with no order as to costs.

Sd/-

(D.H.WAGHELA, J.)

(KMG Thilake)